

AUSA Marcia S. Cohen

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UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u> 23mj 7032
	:	
-v-	:	Violations of 18 U.S.C. §§ 2252A
	:	(a)(2)(B), (a)(5)(B), (b)(1) and
GIUSEPPI MICCIARI,	:	(b)(2)
	:	
Defendant.	:	COUNTY OF OFFENSES:
	:	Westchester
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SOUTHERN DISTRICT OF NEW YORK, ss.:

DANIEL P. SUDEN, being duly sworn, deposes and says that he is a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations ("DHS-HSI") and charges as follows:

COUNT ONE

(Receipt and Distribution of Child Pornography)

1. On or about June 30, 2023, in the Southern District of New York and elsewhere, GIUSEPPI MICCIARI, the defendant, knowingly received and distributed material containing child pornography that had been mailed, and using means and facilities of interstate and foreign commerce shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, MICCIARI received files containing child pornography on his cellphone, while he was in Westchester County, New York.

(Title 18, United States Code, Sections 2252A(a)(2)(B)
and (b)(1).)

COUNT TWO

(Possession of Child Pornography)

2. In or about June 2023, in the Southern District of New York, GIUSEPPI MICCIARI, the defendant, knowingly possessed, and knowingly accessed with intent to view, a book, magazine, periodical, film, videotape, computer disk, and other material containing an image of child pornography that had been mailed, and shipped and transported using a means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer, and that was produced using materials that had been mailed, and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, to wit, MICCIARI possessed images of child pornography,

including images of prepubescent minors and minors who had not attained 12 years of age, on a cellphone located in Westchester, New York.

(Title 18, United States Code, Section 2252A(a)(5)(B) and (b)(2).)

The bases for my knowledge and for the foregoing charges are as follows:

3. I have been a Special Agent with HSI since 2009. During my tenure as a Special Agent, I have conducted and participated in investigations of criminal activity involving crimes against children, including the receipt, possession, and/or distribution of child pornography by electronic means, sexual exploitation, and enticement of minors.

4. I have been personally involved in the investigation of this matter, and I am familiar with the information contained in this Complaint based on my own personal participation in the investigation, my review of documents, conversations I have had with other law enforcement officers about this matter, my training and experience, and numerous discussions I have had with other law enforcement personnel concerning the creation, distribution, and proliferation of child pornography. Because this Complaint is being submitted for the limited purpose of establishing probable cause to arrest the defendant, I have not included the details of every aspect of the investigation. Where actions, conversations, and statements of others are related herein, they are related in substance and in part, except where otherwise indicated.

Definitions

5. The following terms have the indicated meaning in this Complaint:

a. The terms “minor,” “sexually explicit conduct,” and “visual depiction,” as used herein, are defined as set forth in Title 18, United States Code, Section 2256.

b. The term “child pornography,” as used herein, is a visual depiction of a minor involved in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(8).

c. An Internet Protocol (“IP”) address is a unique numeric address used to identify a particular computer connected to the Internet. An IP address looks like a series of numbers separated by periods. Every computer connected to the Internet must be assigned an IP address so that communications from or directed to that computer are routed properly.

The Investigation

6. Beginning in or about October 11, 2022, an HSI Special Agent acting in an undercover capacity (“UC-1”) engaged in communications on Telegram, an internet and cloud-based instant messaging service, with a user (“Seller-1”) who was offering the sale of child sexual assault material (“CSAM”). Based on my experience and training, I am aware that Telegram permits its users to exchange messages, share media and files, and hold private and group voice or video calls, as well public livestreams. Specifically, Seller-1 included in its

profile biography section a user photo depicting a child of approximately five years of age with an erect penis in front of his face, and a statement that read “ONLY DM if You Wanna Buy CP Vids, Don’t Bother If You Have Trust Issues. I have reviewed the communications between UC-1 and Seller-1 and reports concerning UC-1’s communications.

7. In a direct message with Seller-1 on or about October 11, 2022, UC-1 asked, “what you got?” Seller-1 responded, “Read my bio.” UC-1 clarified, “read it looking for new stuff,” and “0-5” by which, UC-1 meant that he was seeking recently produced CSAM of children ages zero to five years old. Seller-1 responded with “\$70 for 50 videos of blacks” and “\$55 for 50 videos of other races.” The Seller-1 also wrote, “I only have 5 to 12,” which the UC-1 understood to mean the age range of children depicted in the CSAM videos for sale.

8. Thereafter, Seller-1 sent UC-1 several photos as samples of the videos for sale (“Sample Photos”). The Sample Photos appeared to be screenshots of a photo gallery on a mobile phone application. The screenshots depicted approximately 15 smaller thumbnail photos, which appeared to represent videos. The Sample Photos had the words “DM If You Wanna Buy CP” printed in red ink diagonally across the thumbnail photos.

9. On or about February 14, 2023, UC-1 purchased, via a PayPal address provided by Seller-1 (“PayPal-1”), the \$55 CSAM bundle of videos advertised by Seller-1.

10. I have reviewed the fifty files UC-1 received in connection with this \$55 payment. Each of these fifty files contains a video that depicts what appears to be a child engaging in sexually explicit activity. The files include the following:

a. File 1_4929452730054869093: This file is a video that is approximately three minutes and 11 seconds in length. The video depicts a prepubescent female child lying on a bed. There is a small child on the bed, next to the prepubescent female, in what appears to be a bassinet. In the video, the prepubescent female rolls over onto her stomach and an adult male, who appears to be filming, pulls her shorts down and exposes her vagina and anus. The male uses his fingers to spread her buttocks and stroke her labia. The male then pulls the child into a position in which she is kneeling on her hands and knees on the bed. The male attempts to insert his erect penis into her anus. The child rolls onto her back. The adult male pulls her back into the kneeling position and again attempts to insert his penis into her anus. He then uses his fingers to spread her labia and inserts the tip of his pointer finger into her vagina and stroked her anus. He then pressed his erect penis in between her buttocks.

b. File 1_4986036003601908036: This file is a video that is approximately one minute and 30 seconds long. The video depicts a female toddler and an adult male. At the start of the video, the adult male has his erect penis inserted into the child’s mouth. The male moves off camera momentarily, during which time the child appears to be gagging, gasping and crying. The male returns, holding his erect penis with his left hand. Several tattoos are visible on his left forearm. The male uses his right hand to hold the child’s head from the back of her head, and pull her head forward, while his erect penis is in her mouth, forcing his penis deeper into her mouth or throat.

c. File 1_4987817117949624578: This file is a video that is approximately two minutes and 41 seconds in length. The video depicts a prepubescent female child and an adult male. The adult male is lying on his back on the bed. The female child is sitting on top of the adult male with his erect penis inserted in her anus. The adult male moves the female child up and down, causing his penis to be repeatedly inserted into her anus. The female child appears lethargic. The adult male moves off the bed and places the child on a table, lying on her back with her legs spread and pushed back. The male stands in front of her, thrusting his erect penis into the child's anus repeatedly. The adult male turns the child over and lays her on the table with her chest, stomach, and face pressed against the table surface, with her legs dangling. The male holds her down on the table by placing his hand on her back, and reinserts his erect penis into her anus and begins thrusting again.

11. On or about February 17, 2023, UC-1 asked Seller-1 if Seller-1 only offers CSAM for sale. Seller-1 stated that Seller-1 only sells videos of children between the age of five to twelve years old.

12. I have reviewed records from PayPal relating to "PayPal-1." These records indicate that the user of PayPal-1 resides in South Africa. Further, based on my review of the PayPal records, I am aware that the user operates multiple PayPal accounts that are linked via a variation of the following identifiers: name, credit card, address, phone number, date of birth, Internet Protocol address, and/or a combination of multiple of the previous listed identifiers.

13. The PayPal records I reviewed include transaction logs detailing payments received by PayPal-1. A number of transactions were for exactly \$55 and exactly \$70. These amounts appear to be consistent with Seller-1's pricing for the two CSAM packages offered to UC-1. Further, the transaction logs reveal activity that, based on my training, experience and conversations with other federal agents and law enforcement officers, appears to be consistent with the sale of CSAM. For example, one purchaser sent PayPal-1 a payment for \$60 with a note that reads, "Ch*ld p," which I believe is a reference to child pornography. Another transaction reflects that a purchaser sent PayPal-1 a payment for \$1 with a note that is an emoji slice of pizza. The slice of pizza emoji is commonly used online to refer to child pornography, because the abbreviation for "cheese pizza" and "child pornography" are "CP," and people trading child pornography generally avoid directly writing the words like "child pornography" online.

14. The PayPal records reflect that, on or about December 14, 2022, PayPal-1 received a payment from a PayPal account ("PayPal-2") in the amount of \$55.00 to PayPal-1. There were no notes attached to this payment.

15. I have reviewed PayPal records relating to PayPal-2. These records reflect that PayPal-2 was opened on or about March 3, 2022 under the name "Giovanni Latesta" and is linked to a telephone number ending in 8199 ("8199-Phone") and an aol.com email address ("Email-1"). These records indicate that that a Visa debit card ending in 6297 is associated with PayPal-2. The records from PayPal indicate that PayPal-2 used the IP address 174.216.244.26 ("26-IP") for the December 14, 2022 transaction.

16. The records from PayPal indicate that, on or about July 30, 2022, PayPal-2 made two payments, one in the amount of 20 British pounds and one in the amount of 5 British pounds, to a PayPal account ("PayPal-3"). The payment in the amount of 5 British pounds was sent with the note "Mega." I am aware that Mega is a New Zealand-based cloud storage platform that permits users to store and share images and videos. Based on my training and experience and my conversations with other law enforcement officers, I am aware that Mega is frequently used by individuals for sharing and storing child pornography.

17. I have reviewed Verizon records relating to the 8199-Phone. These records reflect that the subscriber has an address in Yorktown Heights, New York ("Address-1"). The records indicate that there are seven telephone numbers associated with this account. The Verizon records reflect that the 8199-Phone was assigned the 26-IP address at the time PayPal-2 made the \$55 payment to PayPal-1 on December 14, 2022. The records also indicate that, on or about May 19, 2021, an iPhone 12 was activated for the telephone number ending 8199 and that, on or about June 7, 2023, an iPhone 14 Pro was activated for that telephone number.

18. Based on information provided to me by an investigator with Bank of America ("Investigator-1"), I am aware that the owner of the Visa card ending in 6297 is "Giuseppe Micciari" at Address-1. Investigator-1 also advised that "Giuseppe Micciari" received regular deposits from a local school district ("District-1") up until May 2023.

19. I have reviewed a United States Passport application submitted in connection with the issuance, on September 13, 2022, of a United States Passport for GIUSEPPI MICCIARI, the defendant. The application indicated that MICCIARI was born in January of 1996 and identified Address-1 as his address, his primary contact phone number as the 8199-Phone, and a gmail email address ("Email-2"). The application indicated that MICCIARI's occupation was "teacher" and identified his place of employment as District-1.

20. I have reviewed Yahoo records which indicate that the user of Email-1 identified Email-2 as the recovery email for Email-1.

21. On August 9, 2023, at approximately 7:30 p.m., GIUSEPPI MICCIARI, the defendant, arrived on a flight from Italy at John F. Kennedy Airport. At approximately 9:00 p.m., Customs and Border Protection ("CBP") Officers referred MICCIARI, the defendant, for a border examination. Based on my conversations with the CBP Officers, I am aware that, during that border examination, MICCIARI presented an iPhone 14 Pro ("Phone-1") and a silver MacBook Air to CBP for examination, identified the devices as belonging to him, and provided the passwords to the devices. A short time later, CBP provided the devices to me and I detained them. Thereafter, another HSI Special Agent transported the devices to HSI's Computer Forensics Lab at the office of Homeland Security Investigations in Manhattan.

22. On or about August 10, 2023, the Honorable Andrew E. Krause signed a search warrant authorizing, among other things, the search and seizure of Phone-1 for evidence relating to violations of Title 18, United States Code, Section 2252A.

23. On or about September 7, 2023, a law enforcement agent who is specially trained in the forensic examination of digital material ("Agent-1") began an examination of Phone-1.

Based on my conversations with Agent-1 and my review of material found by Agent-1 on Phone-1, I am aware that Phone-1 contained the app (i.e., application) for Telegram. Among the communications contained on Phone-1 in the Telegram app were the following:

a. On May 24, 2023, Phone-1 asked a user with the screen name "BLK," "Bro u know anyone who does snapchat hacks." On May 27, 2022, BLK responded, "I do snapchat hacks bro. How many account hacks do you want me to do?" Phone-1 responded, "Damn really" and "I just need one rn." BLK asked, "What's the username." Thereafter, Phone-1 provided a user name that appears to contain a female first name and last name. BLK replied, "\$30 and you get access to it" and provided a PayPal account. Phone-1 told BLK, "Just sent it over." Thereafter, BLK requested a screenshot of the payment confirmation and Phone-1 transmitted a photo reflecting a 30 Euro payment. In subsequent communications in May, June, July, and August, Phone-1 repeatedly asked for a status report.

b. On August 18, 2022, a user with the screen name "Kal-El" asked Phone-1, "what age teen content you have." Phone-1 replied, "there one big Mega 10-17" and "I can't take the other ones out I can only send S one." Kal-El replied, "OK send me the mega." Phone-1 said, "trade or buy" and Kal-El replied, "trade any chicks" and "is that cool." Based on my training and experience and conversations with other law enforcement officers, I believe that, when Phone-1 told Kal-El that he "cant take the other ones out," he was referring to the fact that the Mega link he would send would include images of teens aged 10 to 17 but would contain other content also. Further, when Phone-1 said, "trade or buy," I believe he was asking Kal-El if Kal-El was going to pay him for the Mega link containing teens aged 10-17 or if, instead, he was going to "trade" by providing Phone-1 with images.

c. Thereafter, on August 18, 2022, Phone-1 transmitted a link that began with "https://mega.nz/folder." I recognize the format of this link as a Mega link. I am aware that Mega permits its users to send a link to a Mega cloud account to another person. Once the link to the Mega cloud account is transmitted, the person who clicks on the link can access, view, and download the files contained in that Mega cloud account.

24. My review of material found on Phone-1 revealed that Phone-1's "Contacts" contained a name ("Minor-1") that appears to match the name contained in the Snapchat username sent by Phone-1 to BLK. Based on my investigation, I am aware that "Minor-1" is a female minor who attends school in District-1 and that the username that Phone-1 transmitted to BLK is, in fact, Minor-1's Snapchat user name.

25. Based on my conversations with Agent-1 and my review of material found on Phone-1, I am aware that Phone-1 contained approximately 32 images and videos of child sexual abuse material ("CSAM") in the Telegram app's cached data. Among these images and videos are the following files:

a. telegram-cloud-document-1-4956640951075340950 ("File-1"): File-1 is a video of approximately 1 minute and 10 seconds that depicts a prepubescent female who is bound inside what appears to be a parked vehicle. There is a chain with a padlock wrapped around the child's left wrist. The video depicts someone pulling the child's wrist and arm to

expose the child's bare chest. Then, the child's leg appears to be pulled to force her legs open and reveal her bare genitalia.

b. telegram-cloud-photo-size-4-5870999189171846730-u ("File-2"): File-2 is an approximately 9-second video depicting a prepubescent child being sexually penetrated by an adult male. The child's face and torso are visible as the video begins. Then, the camera moves down to reveal the child's genitals and anus. An adult male penetrates the child's anus with his erect penis and thrusts his penis in and out of the child's anus.

c. telegram-cloud-document-1-4961076054564274938 ("File-3"): File-3 is an approximately 9-second video depicting a child standing with her mouth open and her tongue out. An adult sized male moves into the video frame with an erect penis and testicles protruding from his pants. He reaches forward, places his hand behind the child's head, and pulls her head forward and puts his penis in her mouth.

26. Based on my conversations with Agent-1, I understand that, according to data contained on Phone-1, (i) File-1 was created on Phone-1 on or about June 26, 2023 at approximately 10:58 p.m.; (ii) File-2 was created on Phone-1 on or about July 12, 2023 at approximately 5:42 p.m.; and (iii) File-3 was created on Phone-1 on or about June 26, 2023 at approximately 11 p.m. Based on my review of GPS data stored on Phone-1, I am aware that, on all of these dates and times, Phone-1 was located at or in the vicinity of Address-1 in Yorktown Heights, New York.

27. Based on my review of Phone-1, I am aware that, in addition to the approximately 32 images and videos of CSAM found in the Telegram app's cached data on Phone-1, there were two video files – both created on June 30, 2023 -- in the Photo Gallery of Phone-1. Both of the videos depict what appear to be "tours" of a gallery of hundreds of thumbnail photos, which appear to represent videos, many of which appear to be CSAM. The first video ("Video-1"), with file name 7459064918321235269, is approximately 1 minute and 27 seconds long and was created on June 30, 2023 at approximately 1:45 a.m. The second video ("Video-2"), with file name 109365606690668351, is approximately 1 minute and 15 seconds long and was created on June 30, 2023 at 1:58 a.m. The file information for both Video-1 and Video-2 states that the videos have been "saved from Telegram."

28. Based on my review of Video-1, I am aware that, among the thumbnail images contained in Video-1, are the following:

a. Thumbnail marked "9-6 (29).mp4": This thumbnail image depicts a female child holding an adult-sized penis with her tongue out.

b. Thumbnail marked "3_devoch...tylkoy.avi": This thumbnail shows a prepubescent naked female laying on her back. Her legs are spread open and she is holding a white object, the tip of which appears to be pressed against her genitals.

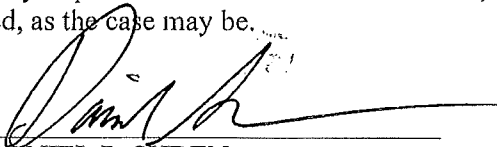
29. Based on my review of Video-2, I am aware that, among the thumbnail images contained in Video-2, are the following:

- a. At approximately 9 seconds into Video-2: A thumbnail that displays "03:41," depicts, a naked prepubescent female laying on her back with her knees up to her chest and her legs spread and her genitals and anus exposed. There appears to be an object inserted into her anus.
- b. At approximately 18 seconds into Video-2: A thumbnail that displays "00:15" at the bottom of the thumbnail, depicts an adult female, licking the genitals of an infant.
- c. At approximately 38 seconds into Video-2: A thumbnail that displays "09:12" at the bottom of the thumbnail, depicts a naked prepubescent, female with long dark hair. Another person has their mouth pressed against the child's genitals.
- d. At approximately 45 seconds into Video-2: A thumbnail depicts a naked prepubescent female. An adult person appears to be holding the child's legs open and is licking just above her exposed genitals.

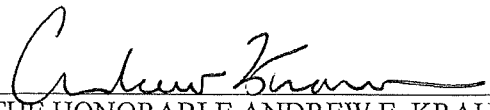
30. Based on my review of GPS data stored on Phone-1, I am aware that, on June 30, 2023, Phone-1 was located at or in the vicinity of Address-1 in Yorktown Heights, New York.

31. Based on my review of Phone-1, I am also aware that the Photo Gallery on Phone-1 contains a photo created on June 30, 2023 at approximately 2:29 a.m., that appears to be a screenshot of a payment confirmation indicating that \$30 has been sent to an individual identified by name. In addition, there is a photo created on June 30, 2023 at 2:32 a.m. in the Photo Gallery on Phone-1 that appears to be a screenshot of a Contact for an individual whose "bio" reads "Message me for new and exclusive Cp mega links."

WHEREFORE, the deponent respectfully requests that GIUSEPPE MICCIARI, the defendant, be arrested and imprisoned or bailed, as the case may be.


DANIEL P. SUDEN
Special Agent
Department of Homeland Security
Homeland Security Investigations

Sworn to before me this
31st day of October, 2023


THE HONORABLE ANDREW E. KRAUSE
United States Magistrate Judge
Southern District of New York